

1
2
3
4
5
6
7
8 **UNITED STATES DISTRICT COURT**
9 **NORTHERN DISTRICT OF CALIFORNIA**
10 **OAKLAND DIVISION**

11 In re RIPPLE LABS, INC. LITIGATION

Case No. 4:18-cv-06753-PJH

12 CLASS ACTION

13
14 This Document Relates to:
15 All Actions

16 **[PROPOSED] ORDER DENYING**
17 **DEFENDANTS' MOTION TO DISMISS**
18 **COUNTS FOUR, SIX, AND SEVEN OF**
19 **THE CONSOLIDATED FIRST**
20 **AMENDED COMPLAINT**

21 On June 8, 2020, Defendants filed a motion to dismiss counts four, six, and seven of
22 Plaintiff's Consolidated First Amended Complaint (CFAC). *See* ECF No. 102. For the reasons
23 below, that motion is **DENIED**.

24 ***

25 Plaintiff alleges that, in a scheme to raise hundreds of millions of dollars, Defendants
26 illegally sold useless XRP tokens to retail investors around the globe. To maximize their profit
27 from these sales, Defendants consistently promoted XRP through false and misleading
28 statements. Plaintiff seeks to hold Defendants liable for defrauding investors in addition to
selling unregistered securities.

1 Plaintiff's state-law fraud claims in counts four, six, and seven of the CFAC are subject to
2 Rule 9(b)'s heightened pleading requirement. Consequently, the CFAC must allege the "who,
3 what, when, where, and how of the misconduct charged." *Vess v. Ciba-Geigy Corp. USA*, 317
4 F.3d 1097, 1106 (9th Cir. 2003) (quotation omitted); *see also* Fed. R. Civ. P. 9(b). In addition to
5 these neutral facts, the CFAC must also set forth "what is false or misleading about a statement,
6 and why it is false." *Vess*, 317 F.3d at 1106.

7 The Court's review of the CFAC shows that it does precisely this. Although even one
8 misleading statement is sufficient to support Plaintiff's state-law fraud claims, the CFAC
9 identifies more than a dozen such statements, particularly pleading who made them, when they
10 were made, and where. Critically, the CFAC also alleges why each statement was false or
11 misleading when made. Consequently, Plaintiff's pleadings satisfy the heightened pleading
12 requirement, and Defendants' motion is denied.

13
14
15
16 Dated: _____
17 HON. PHYLLIS J. HAMILTON
18 UNITED STATES CHIEF DISTRICT JUDGE
19
20
21
22
23
24
25
26
27
28